

Shelter-in-Place Implications for Cannabis Dispensaries

On March 16, seven Bay Area counties issued "shelter-in-place" restrictions, which create compliance issues for cannabis operations licensed as dispensaries or as delivery services.

The pending health orders (reviewed in detail, below) operate as follows:

- Permit an individual to access a local medical cannabis dispensary to obtain medical cannabis (individuals are asked to practice "Social Distancing" at all times);
- Permit a cannabis dispensary holding an M-designation to continue to operate as an "Essential Business" to the extent it serves medical cannabis patients, provided it at all times complies with the "Social Distancing" regulations;
- Cannabis dispensaries that hold both an A and M designation (medical and adult use) can operate to dispense cannabis to its medical cannabis customers (individuals at least 18 years of age and that have a valid physician's recommendation or approval for medicinal cannabis).

In San Francisco, the county's health department declared that all cannabis is a "medicine" and as such a cannabis dispensary that only holds an A-designation is being treated as an "Essential Business".¹ For the cannabis operations that qualify under these rules, we believe that best practices will mean selecting a manager level employee to screen customers prior to entry with a temperature gauge to avoid allowing customers with a fever from entering, practicing "Social Distancing" at all times inside the dispensary, and observing all hygiene mandates and recommendations under the Order. At this time, licensed cannabis delivery services are exempt from the Order: these may continue to make deliveries to the homes of customers.

A detailed analysis of the applicable orders and regulatory environment is available; all cannabis operators and customers are advised to review the actual order applicable in their county of residence and comply with the applicable Order and any guidelines.

¹ The announcement reads: *Cannabis is an essential medicine*



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for many San Francisco residents. Dispensaries can continue to operate as essential businesses during this time, while practicing social distancing and other public health recommendations. It is unclear whether other counties will follow suit. If they do not follow suit, dispensaries with only an A-designation will not qualify as an "essential business" under the local Order, and will need to suspend retail operations.

The analysis in this article is limited to current local or state laws and regulations as they relate to cannabis dispensaries. Readers should note that there is a divergence between Federal law and California's laws regarding the legality of the production, distribution and sale of cannabis. This article does not address the applicability of Federal law in this area and should not be considered legal advice.

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